

CITY OF COWETA, OKLAHOMA

ORDINANCE NO. 828

AN ORDINANCE OF THE CITY OF COWETA, OKLAHOMA THAT: (A) LEVIES AND ASSESSES A ONE PERCENT (1%) SALES TAX ON THE GROSS RECEIPTS OR PROCEEDS ON TAXABLE SALES OF GOODS AND SERVICES, AS DEFINED IN THE ORDINANCE, IN THE CITY OF COWETA, OKLAHOMA IN ADDITION TO ALL PRESENT SALES TAXES UPON SUCH GROSS RECEIPTS OR PROCEEDS, FOR THE PURPOSE OF FUNDING CAPITAL IMPROVEMENTS PERTAINING TO ROAD AND STREET IMPROVEMENTS, WATER AND WASTEWATER SYSTEM IMPROVEMENTS, STORM SEWER IMPROVEMENTS, ACQUISITION OF PARKS MAINTENANCE EQUIPMENT, IMPROVEMENTS TO PUBLIC PARKS LANDS AND FACILITIES, IMPROVEMENTS TO PUBLIC SAFETY FACILITIES, AND ACQUISITION OF PUBLIC SAFETY VEHICLES AND EQUIPMENT, ALL WITHIN SAID CITY, AND/OR TO BE APPLIED OR PLEDGED TOWARD THE PAYMENT OF PRINCIPAL AND INTEREST ON ANY INDEBTEDNESS, INCLUDING REFUNDING INDEBTEDNESS, INCURRED BY OR ON BEHALF OF SAID CITY FOR SUCH PURPOSE; (B) PROVIDES FOR SUCH SALES TAX TO BEGIN ON JULY 1, 2020; (C) PROVIDES FOR THE DURATION OF SUCH SALES TAX TO BE PERMANENT; (D) PRESCRIBES PROCEDURES FOR THE COLLECTION AND REMITTANCE OF SUCH SALES TAX AND PENALTIES FOR THE FAILURE TO DO SO; AND (E) INCLUDES SUCH OTHER PROVISIONS, TERMS AND CONDITIONS AS NECESSARY AND LAWFUL FOR THE EFFECTIVE IMPLEMENTATION AND ENFORCEMENT OF THIS ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COWETA, OKLAHOMA, THAT:

SECTION 1. CITATION AND CODIFICATION. This Ordinance shall be known and may be cited as the City of Coweta Special Sales Tax Ordinance of 2020 and is hereafter referred to as "Ordinance".

SECTION 2. DEFINITIONS. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Title 68, Oklahoma Statutes 2016, Section 1352, as amended, are hereby adopted by reference and made a part of this Ordinance. The sales subject to the excise tax and the exemptions from the excise tax set forth in this Ordinance have been identified herein as corresponding to the Oklahoma Sales Tax Code and such sales and exemptions herein shall be effective and operative under this Ordinance only for so long as the corresponding section of the Oklahoma Sales Tax Code is effective and operative.

SECTION 3. TAX COLLECTOR DEFINED. The term “Tax Collector” as used herein means the department of the City government or the official agency of the State of Oklahoma duly designated according to law or contract authorized by law to administer the collection of the tax herein levied.

SECTION 4. CLASSIFICATION OF TAXPAYERS. For the purpose of this Ordinance the classification of taxpayers hereunder shall be as prescribed by State law for the purpose of the Oklahoma Sales Tax Code.

SECTION 5. SUBSISTING STATE PERMITS. All valid and subsisting permits to do business by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this Ordinance, hereby ratified, confirmed, and adopted in lieu of any requirement for an additional City Permit for the same purpose.

SECTION 6. EFFECTIVE DATE AND TERMINATION. This Ordinance and the tax herein levied shall become and be effective on and after July 1, 2020, subject to approval of a majority of the registered voters of the City of Coweta, Oklahoma, voting on the same in the manner prescribed by Title 11, Oklahoma Statutes, Section 16-101 et seq., as amended at a Special Election to be held on April 7, 2020; provided that upon approval by the voters as aforesaid, this Ordinance shall remain in effect and not be repealed unless repealed by a majority of the registered voters of the City voting to repeal same in the same manner as was required for its approval.

SECTION 7. PURPOSE.

(a) Pursuant to 68 OS §2701 it is hereby declared to be the specific and limited purpose of this Ordinance to provide revenues to be placed in a separate, special fund to be used to fund capital improvements pertaining to road and street improvements, water and wastewater system improvements, storm sewer improvements, acquisition of parks maintenance equipment, improvements to public parks lands and facilities, improvements to public safety facilities, and acquisition of public safety vehicles and equipment in the City of Coweta, Oklahoma and/or to be applied or pledged toward the payment of principal and interest on any indebtedness, including refunding indebtedness, incurred by or on behalf of the City and/or the Coweta Public Works Authority for such purposes, including payment of the costs of issuance of such indebtedness.

(b) “Capital Improvements,” as used above in connection with “capital improvements pertaining to road and street improvements, water and wastewater system improvements, storm sewer improvements, acquisition of parks maintenance equipment, improvements to public parks lands and facilities, improvements to public safety facilities, and acquisition of public safety vehicles and equipment in the City of Coweta, Oklahoma,” shall mean all items and articles, either new or replacements, not consumed with use but only diminished in value with prolonged use, including but not limited to, the purchase, lease or rental of vehicles, machinery, equipment and fixtures and the acquisition of all real properties necessary in connection with the construction, reconstruction and repair of buildings, appurtenances and improvements to real property including: the construction, reconstruction and repair of roads, streets, alleys, trails, sidewalks, and other public ways;

the construction, reconstruction and repair of water facilities, sanitary and storm sewer systems and facilities, drainage improvements; the construction, reconstruction and repair of public park lands and facilities; the construction, reconstruction and repair of public safety facilities; and the costs and expenses related to the aforesaid including design, engineering, architectural, acquisition of real property and legal fees.

(c) There is hereby created a limited-purpose fund and all revenues generated by the sales tax hereby levied shall be deposited therein. Money in the fund shall be accumulated from year to year. The fund shall be placed in an insured interest-bearing account and the interest accumulated thereon shall be retained in the fund. The fund shall be non-fiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the limited-purpose tax fund shall be expended only as accumulated and only for the purposes specifically described in this Ordinance, subject to the approval of the voters.

SECTION 8. TAX RATE-SALES SUBJECT TO TAX. There is hereby levied in addition to all other taxes in effect in the City of Coweta, Oklahoma an excise tax of One Percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the City of Coweta, Oklahoma, upon which a consumers' sales tax is levied by the State of Oklahoma under the Oklahoma Sales Tax Code.

SECTION 9. EXEMPTIONS. There is hereby specifically exempted from the tax levied pursuant to the provisions of this Ordinance all items that are exempt from the State Sales Tax under the Oklahoma Sales Tax Code.

SECTION 10. OTHER EXEMPT TRANSFERS. There is also hereby specifically exempted from the tax levied pursuant to the provisions of this Ordinance the transfer of tangible personal property exempted from the Oklahoma Sales Tax Code.

SECTION 11. TAX DUE WHEN-RETURNS-RECORDS. The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the State Sales Tax under the Oklahoma Sales Tax Code.

SECTION 12. PAYMENT BY TAX-BRACKETS.

(a) The tax herein levied shall be paid to the Tax Collector at the time and in the form and manner provided for payment of the State Sales Tax under the Oklahoma Sales Tax Code.

(b) The bracket system for the collection of the One Percent (1%) City Sales Tax provided for herein by the Tax Collector shall be as the same is hereafter adopted by the agreement of the City of Coweta, Oklahoma and the Tax Collector, in the collection both the One Percent (1%) City Sales Tax provided for herein and the State Sales Tax.

SECTION 13. TAX CONSTITUTES DEBT. Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors and may be collected by suit as any other debt.

SECTION 14. VENDOR'S DUTY TO COLLECT TAX.

(a) The tax levied hereunder shall be paid by the consumer or user to the vendor, and it shall be the duty of each and every vendor in this City to collect from the consumer or user, the full amount of the tax levied by this Ordinance, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

(b) Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price or charge, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

(c) A Vendor, as defined herein, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this Ordinance, or willfully or intentionally fails, neglects or refuses to comply with the provisions hereof or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or a part of the tax levied herein, or makes in any form of advertising, verbally or otherwise any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of an offense, and upon conviction thereof shall be fined not more than One Hundred Dollars (\$100.00), plus costs, or incarcerated for not more than sixty days, or both. Provided, sales by vending machines may be made at a state price which includes state and any municipal sales tax.

(d) Any sum or sums collected or required to be collected hereunder shall be deemed to be held in trust for the City of Coweta, Oklahoma, and as trustee, the collecting vendor shall have a fiduciary duty to the City of Coweta, Oklahoma in regard to such sums and shall be subject to the trust laws of this State. Any vendor who willfully or intentionally fails to remit the tax, after the tax levied by this Ordinance was collected from the consumer or user, and appropriates the tax held in trust to his own use, or the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

SECTION 15. RETURNS AND REMITTANCES-DISCOUNTS. Returns and remittances of the tax levied herein and collected shall be made to the Tax Collector at the time, and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Sales Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by the Oklahoma Sales Tax Code for collection of State Sales Taxes.

SECTION 16. INTEREST AND PENALTIES-DELINQUENCY. The provisions of Title 68, Oklahoma Statutes 2016, Section 217, as amended, and of Title 68, Oklahoma Statutes, Sections 1350 et seq. as amended, are hereby adopted by reference and made a part of this Ordinance, and interest and penalties at the rates and in the amount as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Ordinance. Provided, that the failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner

required by this Ordinance shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the taxpayer shall forfeit claim to any discount allowed under this Ordinance.

SECTION 17. WAIVER OF INTEREST AND PENALTIES. The interest or penalty or any portion thereof accruing by reason of taxpayer's failure to pay the City Sales Tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applicated in the administration of the State Sales Tax provided in Title 68, Oklahoma Statutes, 2016, Section 220, as amended; and to accomplish the purposes of this section, the applicable provisions of said Section are hereby adopted by reference and made a part of this Ordinance.

SECTION 18. ERRONEOUS PAYMENTS-CLAIMS FOR REFUND. Refund of erroneous payment of the City Sales Tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedures, and under the same limitations of time, as provided for administration of the State Sales Tax as set forth in Title 68, Oklahoma 2017, Section 227, as amended, and to accomplish the purposes of this section, the applicable provision of said Section 227 are hereby adopted by reference and made a part of this Ordinance.

SECTION 19. FRAUDULENT RETURNS. In addition to all civil penalties provided by this Ordinance, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Ordinance shall be an offense and upon a conviction thereof the offending taxpayer shall be subject to such fines and/or incarceration as provided in Title 68 Oklahoma Statues 2016, Section 241, as amended.

SECTION 20. RECORDS CONFIDENTIAL. The confidential and privileged nature of the records and files concerning the administration of the City Sales Tax is legislatively recognized and declared, and to protect the same the provisions of Title 68, Oklahoma Statutes 2016, Section 205, as amended, and each subsection thereof is hereby adopted by reference and made fully effective and applicable to administration of the City Sales Tax as if therein set forth in full.

SECTION 21. AMENDMENTS. The people of the City of Coweta, State of Oklahoma, by their approval of this Ordinance at the election hereinabove provided, hereby authorize the Mayor and the City Council of the City of Coweta, Oklahoma, by ordinances duly enacted, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as may be necessary or proper for efficiency and fairness except that neither the rate of the tax as set forth in Section 8 hereof, nor the purposes as set forth in Section 7 hereof, shall be changed without approval of a majority of the qualified electors of the City of Coweta, State of Oklahoma, voting at an election held for such purpose as provided by law.

SECTION 22. PROVISIONS CUMULATIVE. The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions contained within City of Coweta, Oklahoma Ordinances.

SECTION 23. PROVISIONS SEVERABLE. The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this Ordinance is for any reason held invalid or inoperative by a court of competent jurisdiction such decision shall not affect any other section, paragraph, sentence or clause hereof.

PASSED AND APPROVED this 3RD day of February 2020.

Evette Morris, Mayor

ATTEST:

Julie Casteen, City Clerk

APPROVED:

Ronald D. Cates, City Attorney